

EIS000332

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DEPARTMENT OF NATURAL RESOURCES & FEDERAL FACILITIES

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99-528-LB (L)

September 17, 1999

Russ Dyer, Project Manager
Yucca Mountain Site Characterization Office
U.S. Department of Energy
1551 Hillshire Drive Suite A
Las Vegas, NV 89144

Nye County Position on Draft Environmental Impact Statement for the Proposed Repository at Yucca Mountain, Nye County, Nevada

Dear Mr. Dyer:

Thank you for the opportunity to meet with you today. My goal was to informally discuss with you the position that I will recommend that Nye County take in public meetings about the Draft Environmental Impact Statement (DEIS). On Tuesday, September 21, 1999, I will be going before the Nye County Board of County Commissioners to report on the preliminary findings of the Nye County technical staff in their review of this DEIS. Once I have informed them of our findings, they will give guidance and direction on the formal position to be adopted by the County as we prepare our formal comments during the public review period and participate in the scheduled public meetings. Enclosed for your information is a copy of the September 21, 1999, Commission meeting agenda item and backup information that I will discuss with the Board.

Unfortunately, our preliminary findings regarding the Yucca Mountain DEIS are not favorable. We have found the DEIS to be inadequate in a number of technical areas. In this regard, Nye County will likely request that the DEIS be reissued for a second round of public review and comment. The County will likely also request that the 'proposed action' be revised to include the measures necessary to mitigate the impacts that would be reasonably expected to occur should the repository be sited in Nye County. Our requests and comments will be supported by technical data, evaluations, and other relevant and appropriate documents and will become part of the administrative record.

As we discussed, it will be helpful as Nye County prepares its comments to have access to the technical analysts responsible for preparing the EIS sections of interest to the County. We appreciate your offer to make them available. By meeting with them we can better understand DOE's rationale. We appreciate your support of these important interactions.

With respect to other topics discussed today, Nye County appreciates your suggestion of convening a federal discussion group or task force that would address our concerns about the cumulative impacts of federal agencies' actions in the County. In this regard Nye County will put out 'feelers' among the various federal agencies to see what interest there may be for such a meeting.

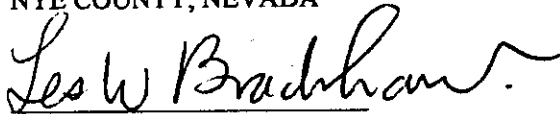
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We are also interested in working with the DOE/YMSCO and NVO to plan and sponsor a science and technology "Career Day" or similar event on the NTS for selected exceptional high school students of the Nye County School District. The objective would be to encourage students to pursue careers in science and math and to show them the advantages of employment with the Department and its contractors in Nye County.

Again, thanks for taking the time to meet with us. Please contact Nick Stellavato if additional information or clarification is needed.

Very truly yours,
NYE COUNTY, NEVADA



Les W. Bradshaw
Department Manager

LB/cal

cc: Board of Commissioners
J. McKnight
T. Buqo
M. Giampaoli
J. Marble
M. Murphy
N. Stellavato
J. Williams

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Summary of Nye County Issues and Comment Categories on Yucca Mountain DEIS

- 1 In general, the DOE has prepared a DEIS which accurately presents the perspective of a single federal agency in its analysis of the potential impacts associated with the proposed action and the alternatives. There is a nearly complete failure to incorporate the assumptions, methods, viewpoints and analyses of the host county, which represent the local perspective of how this action proposal could potentially impact the residents, those citizens most directly affected and subject to long-term risks associated with the repository. Further, the DEIS ignores other federal actions and policies in their analysis of cumulative impacts. Nye County believes that the DEIS is inadequate and will request that a second draft EIS be prepared and released for public review and comment.

Issues Related to Overall Inadequacy of the DEIS

- 2 As the host county, Nye County is the local jurisdiction most affected by this action proposal. NEPA affords local governments the opportunity to identify the potential impacts as they affect the local environment, especially when an action is site specific, as is the YMP repository action. The viewpoints and analyses provided by the County, which are referenced but not incorporated, should be formally adopted by DOE within the FEIS as the official position of the host county. Nye County will formally submit its evaluations and conclusions, under signature of the Nye County Board of County Commissioners, as the formal position of the affected unit of local government for inclusion in the EIS.
- 3 DOE in the YMP DEIS fails to adequately identify the indirect, direct cumulative, and indirect cumulative impacts in the locale of the proposed action, as required by NEPA at 40 CFR 1508.27. Nye County has, through the administrative process, provided the DOE with its perspective on the issues and analysis of actions and consequences.
- 4 Nye County expects the Secretary's site recommendation to include a specific transportation proposal (mode, routes, equipment, operations, etc.). Nye County has developed criteria for such a proposal, and expects these criteria to be specifically addressed in DOE's transportation proposal. It is unacceptable to prepare a site recommendation that does not include such a proposal, and it is unacceptable to exclude such a proposal from the DEIS.
- 5 Just as the DEIS acknowledges views of Native American tribes in the region, the EIS must acknowledge the views of Nye County. Such views include but are not limited to a) shipment of high-level wastes down the US-95 corridor (by legal-weight or heavy-haul truck) is inequitable and unacceptable, and b) the Chalk Mountain route, since it avoids rural communities in Nye County, is the preferable route for rail shipment and the only potentially acceptable route for heavy-haul shipment
- 6... The DOE identifies opposing technical viewpoints in its DEIS. DOE identifies Nye County's perspective as a local viewpoint, rather than an opposing viewpoint. Although

- 6 cont. Nye County is in agreement on many technical issues, where analysis performed from the local perspective requires the use of different assumptions and data, the difference in resulting impacts should be identified in the FEIS as opposing technical viewpoints.
- 7 DOE fails to include reasonably foreseeable action proposals identified in other federal, state, and local documents (e.g., many DOI actions are not included; Las Vegas Valley Water District water right applications are not included). DOE also relies upon analyses performed by other agencies where such agencies failed to identify impacts to Nye County and its resources, even when Nye provided supporting analyses and documentation through the agencies' administrative process.
- 8 Nye County has repeatedly attempted to utilize the administrative process to inform DOE and other federal agencies of the impacts that have occurred, continue to occur, and will likely be exacerbated by the implementation of yet another federal action in Nye County. Federal agencies have repeatedly failed to fulfill their obligations through the NEPA administrative process, and have failed to provide mitigations that are required. Nye County will continue to identify environmental issues, the potential impacts, and appropriate mitigation measures, and will ensure that the County's position is made part of the DOE's Administrative Record for the NEPA process.
- 9 Additionally, the DEIS fails to consider alternatives that are currently being pursued (e.g., interim storage and Goshute Reservation in Utah), but evaluates alternatives that are illegal and do not meet DOE's mandate to accept wastes. For example, DOE includes as part of the action proposal, analysis of the full DOE-responsible radiologic inventory through 2046 as part of the cumulative impact evaluation. The EIS must acknowledge that this scenario, which has not been proposed, would require additional legislation, at a minimum, and is an abandonment of the original 1982 compromise of the geographic equity envisioned as part of our Nation's nuclear waste policy.

Issues Related to the Assessment of Risk

- 10 Key aspects of the risk assessments presented in the DEIS are based on estimated values rather than actual data. The NWTRB's experts have severely criticized the results of the models that are used as the basis for the DOE's risk assessments. Additionally, results of the models indicate chemical toxicity may pose greater risk to Nye County residents than releases of radiation from the repository. Only now are data being collected and tests being planned to provide the information needed to do meaningful risk assessments. Coupled with inappropriate assumptions and inaccurate data, these assessments result in artificially low risk values for Nye County residents.

The evaluation of impacts associated with the performance confirmation program, as described in the EIS, does not contemplate the remedy(ies) that DOE would implement should conditions occur that suggest that repository performance could fall below those predicted. Nor does the EIS provide an analysis of the impacts that would occur should the repository not perform as predicted or planned.

Issues Related to DOE's Environmental Consequence Analysis

- 11 The selection of Regions of Influence for analysis reflects the federal viewpoint of this DEIS. There is an inherent policy statement in the DEIS that DOE believes that federal land ownership of the majority of the area abrogates their responsibility to evaluate impacts to non-federal entities. In essence, through the selection of ROIs, DOE has limited its evaluation of impacts to federally managed lands, and has taken the position that any unquantified impacts to the surrounding county "would be absorbed."

Use of these ROIs results in a minimization of impacts to Nye County, its residents, and the availability of its resources. Land use, water resources, and demographic baseline data are examples of resource areas where inappropriate ROIs are used. For example, the EIS does not correctly account for growth trends in southern Nye County. Nye County is not as remote, static and sparsely populated as this DEIS assumes.

The following technical areas of the DEIS will be reviewed by Nye County within the context of the issues defined above, and formal comments submitted to DOE as the official position of the situs jurisdiction.

Water Resources

Land Use

Demographic Values

Environmental Justice

Transportation

Biological Resources

Repository Costs

Radiologic Source Term and Relationship to Long Term Health and Safety of Nye County and its Residents

Stigma and Risk Perception

Technical review of these areas is focusing on elements such as validity of various assumptions, regions of influence, quantitative and qualitative methods, and specific data and parameter values.

Issues Stemming from the Inadequacy of Mitigation Measures

- 12 Within the FEIS, the DOE must disclose the contribution of individual engineered and natural barriers to system performance. The EIS must recognize that the change in repository design from a multiple barrier system with primary reliance on natural barriers to repository design with primary reliance on an engineered barrier system, has effectively negated the purpose of considering the Yucca Mountain site. Thus, the primary basis for the siting proposal has changed. Nye County must establish its unique position of being mandated to accept the risk of hosting the long term disposal of the Nation's entire high-level radiologic waste inventory.

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With the cessation of nuclear weapons testing in 1992, Nye County has made substantial efforts to plan for its economic future in the US-95 corridor. The DEIS does not recognize these plans, and does not reflect a DOE obligation to ensure that the YMP will not thwart those plans. Nye County, by virtue of its location, characteristics, and overwhelming federal presence has been disproportionately impacted by past, present, and continuing federal actions. Nye County must receive just equity offsets, mitigation, and compensation from the U.S. to mitigate the cumulative of these past and present actions, and the proposed repository, should it go forward.

Through Nye County's analyses and evaluations, a range of direct and indirect cumulative impacts have been identified (land use, water resources, lost economic opportunity, and others). Nye County believes that these impacts, although adverse and significant, can be mitigated through various measures.

Nye County will present its technical basis and evaluations to support the position that impacts stemming from the implementation of the proposed action can be mitigated, and will continue to request mitigation pursuant to NEPA.